

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

ATRAVION PRESTON,

Case No. 3:15-cv-459

Petitioner,

Judge Thomas M. Rose

v.

THOMAS SCHWEITZER, Warden,  
Lebanon Correctional Institution,

Respondent.

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**ENTRY AND ORDER OVERRULING OBJECTIONS (DOC. 11) TO THE  
REPORT AND RECOMMENDATIONS; ADOPTING REPORT AND  
RECOMMENDATIONS (DOC. 10) IN THEIR ENTIRETY; DENYING  
MOTION FOR SUMMARY JUDGMENT (DOC. 8); DISMISSING WITH  
PREJUDICE THE PETITION FOR WRIT OF HABEAS CORPUS (DOC. 2);  
AND TERMINATING CASE**

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This habeas corpus case is before the Court on the Objections (Docs. 11) filed by Petitioner Atravion Preston (“Petitioner”) to Magistrate Judge Michael R. Merz’s Report and Recommendations (Doc. 10), in which Judge Merz recommended that Petitioner’s Motion for Summary Judgment (Doc. 8) be denied and Petition for Writ of Habeas Corpus (Doc. 2) be dismissed with prejudice.

As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the Court has made a *de novo* review of the record in this case. Upon said review, the Court finds that Petitioner’s Objections (Doc. 11) to the Report and Recommendations (Doc. 10) are not well taken and they are hereby **OVERRULED**. The Court **ADOPTS** the Report and Recommendations (Doc. 10) in their entirety and rules as follows:

- The Motion for Summary Judgment (Doc. 8) is **DENIED**;
- The Petition for Writ of Habeas Corpus (Doc. 2) is **DISMISSED WITH**

**PREJUDICE;**

- As reasonable jurists would not disagree with this conclusion, Petitioner is **DENIED** a certificate of appealability;
- The Court **CERTIFIES** to the Sixth Circuit that any appeal would be objectively frivolous and therefore Petitioner should not be permitted to proceed *in forma pauperis*; and
- The Clerk is **ORDERED** to terminate this case on the docket of this Court.

**DONE** and **ORDERED** in Dayton, Ohio, this Thursday, July 7, 2016.

s/Thomas M. Rose

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE